

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2175 of 1985

For Approval and Signature:

Hon'ble MR.JUSTICE N.J.PANDYA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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RANJITSINH PATHUBHA CHUDASAMA

Versus

DISTRICT SUPERINTENDENT OF POLICE,  
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Appearance:

Mr.Mazgaonkar, L.A. for Mr.S.N.Shelat,Sr.Counsel for  
the Petitioner

Mr.A.J.Desai, LA for M/s.M.G.Doshit & Co. for the  
respondents  
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CORAM : MR.JUSTICE N.J.PANDYA

Date of decision: 09/10/96

ORAL JUDGEMENT

The petitioner started his career in the police force of the then State of Bombay as back as on 14th December 1939. In course of time, he came to be promoted to 2nd Grade Unarmed Head Constable with effect from 10-4-1972. He left the service on superannuation on 1-4-1976 after getting all his dues.

2. However, it seems that on account of reshuffling of various grades in the police force of the State in the year 1980, the State Government took a decision and issued an order dated 8-10-1980 whereby the original four grades of Head Constables came to be reduced to two and with effect from 1-6-1967, the petitioner along with as many as 87 others came to be posted as 2nd Grade Unarmed Head Constable. His pay-scale fixed with effect from 1-6-1967 was Rs.125-3-140-EB-4-160.

3. It seems that when the petition was filed, the petitioner came with a case that he was grade-I head constable. This he was prompted to say, largely because, before filing of the petition, he had availed of a column of local Gujarati daily "Gujarat Samachar" known as "Lok Darbar". In that column he had aired his grievances about benefits not having been granted to him, to which, the Department responded by pointing out that orders have already been issued on 8-10-1980 setting right the position with effect from 1-6-1967. This response from the Department is at Annexure-A, page 6. In this communication, the Department has referred to the petitioner having been granted First Grade. Later on, in the affidavit in reply, this has been clarified.

4. The petitioner has also accepted this position and has carried out suitable amendment in this petition. The situation that emerges therefore, is that while the petitioner was in service upto 1-4-1976, he did get the benefit of the post of Second Grade Unarmed Head Constable from the date of his promotion. However, when this promotion came to be made effective from a back date namely 1-4-1967, obviously, the pay scale indicated above will have to be given effect to from that date. As the petitioner was in service on that date, he will have to be placed at the proper stage of that pay scale when he will be deemed to have been promoted from 1-6-1967. Thereafter, the benefits of the said scale will have to be given to him till his retirement. No doubt, whatever he has got when he actually came to be promoted from 10-4-1972 till the date of retirement, will have to be taken into consideration for giving him retirement benefit with effect from 1-4-1976. In other words, increment and everything that he would be entitled to as a result of change in the said promotion date with retrospective effect from 1-6-1967 will have to be worked out as a consequence of that decision dated 8-10-1980 and acted upon all through out including the retirement benefits.

5. Accordingly, a mandate is issued to the respondents that they shall first fix the stage of the said pay-scale at which the petitioner would be fitted on being promoted to the 2nd grade unarmed Head Constable with effect from 1-6-1967 and thereafter due increments, including crossing of efficiency bar will be worked out right upto the date of retirement. His pension shall also be refixed on that basis. Mandatory benefits thus worked out will ofcourse be adjusted with the amount that has already been paid to the petitioner from 10-4-1972 till retirement while he was in actual service as monthly pay paid to him on due date and and likewise, all the retirement benefits worked out on that basis and paid to the petitioner shall also be adjusted towards the amount worked out keeping the aforesaid direction and the balance that is due to the petitioner shall be paid to him thereafter. For working out the directions and the mandate, the respondents are given 4 months time from today. Rule is made absolute. No order as to costs.

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